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## NEWS RELEASE

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For Media Release:  
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### **Comment Wanted on Proposal to Amend Penal Procedure Rule on Correction or Reduction of Sentence**

The Supreme Court of Hawai'i seeks public comment on a proposal to amend Rule 35 of the Hawai'i Rules of Penal Procedure. The amendment will provide that Rule 35 motions may not be filed more than 90 days after sentencing. Motions that seek relief from sentencing, filed more than 90 days after sentencing, must be filed pursuant to Rule 40 as petitions for post conviction relief.

The following is the proposed rule amendment (deleted material is bracketed and new material is underlined):

#### **Rule 35. Correction or Reduction of Sentence**

(a) Correction of Illegal Sentence. The court may correct an illegal sentence at any time and may correct a sentence imposed in an illegal manner within the time provided herein for the reduction of sentence. A motion made by a defendant to correct an illegal sentence more than 90 days after the sentence is imposed shall be made pursuant to Rule 40 of these rules. [The court may reduce a sentence within 90 days after the sentence is imposed, or within 90 days after receipt by the court of a mandate issued upon affirmance of the judgment or dismissal of the appeal, or within 90 days after entry of any order or judgment of the Supreme Court of the United States denying review of, or having the effect of upholding a judgment of conviction.] A motion to correct [or reduce] a sentence [which] that is made within the 90 day time period [aforementioned] shall empower the court to act on such motion even though the time period has expired.

(b) Reduction of Sentence. The court may reduce a sentence within 90 days after the sentence is imposed, or within 90 days after receipt by the court of a mandate issued upon affirmance of the judgment or dismissal of the appeal, or within 90 days after entry of any order or judgment of the Supreme Court of the United States denying review of, or having the effect of upholding the judgment of conviction. A motion to reduce a sentence that is made within the time prior shall empower the court to act on such motion even though the time period has expired. The filing of a notice of appeal shall not deprive the court of jurisdiction to entertain a timely motion to reduce a sentence.

Comments about the proposal to amend HRPP Rule 35 should be submitted in writing no later than Oct. 4, 2002 to the Judiciary Public Affairs Office, 417 South King Street, Honolulu, Hawai'i 96813.

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